

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
FWP Headquarters – 1420 East 6th Avenue
Helena, MT

MAY 12, 2011

Commission Members Present: Bob Ream, Chairman; Dan Vermillion, Vice-Chairman; Ron Moody; Shane Colton, and A.T. Stafne.

Fish, Wildlife & Parks Staff Present: Joe Maurier, Director, and FWP Staff.

Guests: See May 12, 2011 Commission file folder for names of who signed in.

A Work Session immediately followed the Commission meeting for discussion of the Farm Bill and Bison issues.

Topics of Discussion:

1. **Call to Order - Pledge of Allegiance**
 2. **Approval of Minutes of April 14, 2011 Commission Meeting**
 3. **Approval of Minutes of May 5, 2011 Conference Call**
 4. **Approval of Commission Expenses through April, 2011**
 5. **Commission Reports**
 6. **Director's Report**
 7. **Legislative Update**
 8. **Clark Fork River Administrative Rule Amendment - Proposed**
 9. **Bitterroot River Administrative Rule Amendment - Proposed**
 10. **Blackfoot River Administrative Rule Amendment - Proposed**
 11. **South Fork Flathead Limit Waiver - Proposed**
 12. **2011 Moose, Sheep, Goat Quotas Outside Biennial Quota Ranges - Final**
 13. **Nongame Check-off Work Plan - Proposed**
 14. **2011 HB 454 Hunting Access Agreements - Proposed**
 15. **2011 Fall Upland Game Bird Quotas and Limits - Proposed**
 16. **Robb Ledford WMA Sheep Trailing - Proposed**
 17. **2011 Wolf Hunting Seasons, Quotas and Hunting District Boundaries - Proposed**
 18. **Reestablish Closure of Clark Fork & Blackfoot Rivers Near Milltown Dam Site - Final**
 19. **Open Microphone – Public Opportunity to Address Additional FWP Issues**
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1. **Call to Order - Pledge of Allegiance.** Chairman Ream called the meeting to order at 8:30 a.m. and led the Pledge of Allegiance.
 2. **Approval of the Commission Meeting Minutes of April 14, 2011.**
Action: Colton moved and Moody seconded the motion to approve the April 14, 2011 minutes. Motion carried.
 3. **Approval of Minutes of May 5, 2011 Conference Call.**
Action: Colton moved and Vermillion seconded the motion to approve the May 5, 2011 minutes. Motion carried.
 4. **Approval of the April Commission Expense Report.**
Action: Moody moved and Colton seconded the motion to approve the expense report as presented. Motion carried.

5. Commission Reports.

Moody said there is a rising concern about vacancies in the Department and the effect they have on wildlife management. For instance, the Lewistown wildlife manager position is vacant, and has been for awhile. He said people are discussing politics more than in the past.

Colton said there is a pressing concern in his district regarding the Service's intent to pave access areas along the Bighorn River. There is strong belief that there is a conspiracy against the river users, and this paving plan would shut down two key accesses for most of the summer. Senator Tester is looking into it. He suggested that since the Commission has not met in the Billings area for some time, it might be a good idea to do so in the near future, and conduct a tour of the Bighorn River in conjunction with the meeting.

Vermillion stated that the confirmation process was an eye opening experience. He was touched by all the support he received from folks across the state. Livingston area folks are calling for sandbags in preparation for potential flood conditions. The Yellowstone River is low at this point, but the large accumulation of snow in the mountains is of concern if it melts quickly. Bison are still a big issue.

Ream said the legislature has left town and the Department survived. FWP was the bulls eye of the target this session. He thanked Director Maurier and staff for dealing with the difficult legislature.

6. Director's Report. Director Maurier spoke to the vacancy savings situation in the Department, FWP was put under a seven percent vacancy savings plan last year, which affects nearly ten percent of the FWP workforce. FWP presently has 40 vacant positions, which is still under the 7 percent dictate. The Department must receive permission from the Governor's Chief of Staff to fill positions. It is projected that the Department will go back to a four percent vacancy savings plan. This is a campus-wide thing -- every agency has to share in the vacancies.

Moody questioned where the vacancy savings money goes since FWP is funded by sportsmen's license dollars. Maurier replied that the money stays in FWP's account. It is not general fund money, so FWP does not lose it. Moody said it would be good to know how much license revenue is lying idle in bank accounts.

Maurier stated that five lawsuits were filed last week - two regarding wolves. Bob Lane added that the lawsuits are filed against the federal agencies.

Maurier stated that a memo will soon be distributed regarding the reorganization of the Fishing Access Program. It is being transferred to the Fish and Wildlife Division from the Parks Division. As a related issue, Maurier noted that a study bill is being conducted that may place the Parks Division within another agency. FWP is preparing to review and exchange all Department owned properties to organize them under the proper Division in the event legislation moves Parks out of FWP. Even if there is no separation from FWP, this review will be conducted to verify whose money is being spent, and for what. Maurier said the biennial season setting process is set to begin soon in order to provide ample time for the public to weigh in. He asked the Commission to submit their ideas / suggestions for what they feel should be in the season setting regulations. It will be important to include justification on changes, and information on how quotas are set initially.

Director Maurier suggested a two-day Commission meeting in June -- a work session one day and the meeting the next day. One topic for discussion is elk archery hunting and elk management in the Missouri Breaks as there is a push to change some biennial regulations. It would be a good idea to revisit why decisions were made. He would like the Commission to meet with stakeholders to create a short-term working group relative to the Breaks. The suggestion to engage a facilitator to assist in group discussions has been made.

Colton suggested soliciting interested parties soon for the working group as it would be late to wait until July. It would be advantageous to include folks who have followed this issue and have knowledge of what has already transpired and what the impacts have been.

Moody suggested utilizing the PLPW Council, but Maurier stated that that had been suggested in the past, but was met with resistance.

Moody stated that before more decisions are made, the Commission must hold a thorough discussion on statutory authority and how the rules / laws are applied. This needs to be a work session item.

Ream said he wants to tighten up the regulations regarding disabled hunting and hunting from vehicles. He has received many complaints asserting that doctors are freely certifying people as eligible to obtain disabled status for hunting licenses.

7. Legislative Update. Director Maurier briefed the Commission on the results of legislation directed at FWP.

Dave Risley, FWP Fish & Wildlife Division Administrator, spoke on the Fishing Access Site transition from the Parks Division to the F&W Division. It will fall under the Fisheries Bureau in Helena, with implementation by the regional supervisors. There will be no reduction in force. He said the budget for non-game funding under the State Wildlife Grants program was cut back severely by Congress. The Wildlife Service has filed a work plan on the Endangered Species Act.

8. Clark Fork River Administrative Rule Amendment - Proposed.

9. Bitterroot River Administrative Rule Amendment - Proposed.

10. Blackfoot River Administrative Rule Amendment - Proposed.

Becky Jakes-Dockter, FWP Legal Council, briefed the Commission on the river recreation rule amendments under consideration at this meeting. They are brought forward by Region 2 rather than by a petition under authority of the River Recreation Rules 12.11.405. The Citizen's Advisory Council considered the amendments and provided recommendations. The Commission must take action to initiate rulemaking on the proposal, amend the proposal, or deny the proposal. If adopted as proposed, it goes into the rule making process.

Administrative Rules regulate motorized watercraft on the Blackfoot, Bitterroot and Clark Fork Rivers with exceptions allowed according to the time of year, section of river, and/or horsepower. The public has voiced concerns about increased motorized watercraft use, citing concerns about social and public safety due to the close proximity of watercraft to swimmers, rafts, inner-tubes, and drift boats. FWP is therefore recommending amendments to the regulations to address social conflicts and public safety concerns, to improve the rule language, and to recognize that regulations pertaining to Milltown Dam are no longer appropriate. The sections of river under review include less than one mile of the Blackfoot immediately upstream of the Clark Fork, sixty miles of the Clark Fork from the former Milltown site to Fish Creek, and twenty-three miles of the Bitterroot from Florence Bridge to the Clark Fork.

Mack Long, FWP Region 2 Supervisor, narrated a Power Point presentation. The Department is asking for Commission approval to amend current regulations to address public safety concerns and social conflicts.

Greg Munther, Montana Bowhunters Association, said he is familiar with the Bitterroot River and has watched changes occur. He supports the proposal, and appreciates FWP's efforts. He said ninety-eight percent of use is motorized, and there will be more traffic with the installation of boat ramps. He sees conflicts occur, and sees wildlife disturbed. He has seen logs floating just under the surface of the water. There are also erosion concerns. A few people have fun at the expense of a lot of other people.

Mark Stergios, Missoula, said that in March of 2010 he was a third of the way across the Clark Fork River in waders when a jet boat doing 20 knots came rushing down the river throwing a 4-foot wake behind it. He managed to get out of the boat's way, but the wake contained debris and aquatic weeds, and the shoreline took a beating. For 90 days the rivers are full of inner-tubers - a jet boat could hurt someone.

Michael Gibson, Montana Trout Unlimited, said this is an important issue in their region - it is a priority to them. There has been an increase in motorized use as access has improved. It is time the public comments on this. There are other organizations that are also supportive of this proposal. He encouraged approval of this plan.

Derek Goldman, Western Wolf Coalition, said he applauds the Department for this proposal, but would like to see it tightened up in the Petty Creek area. Many jet boats go between water bodies and could transfer aquatic species. He urged the Department to consider paving boat ramps.

Action: Vermillion moved and Moody seconded the motion to adopt as tentatives the proposed rule amendments and direct the Department to proceed with rulemaking consistent with the Montana Administrative Procedures Act and the statewide river recreation administrative rules. Motion carried.

11. South Fork Flathead Limit Waiver - Proposed. Bruce Rich, FWP Fisheries Bureau Chief, explained that FWP initiated the South Fork Flathead Cutthroat Conservation Plan to replace nonnative fish with pure westslope cutthroat in 21 lakes in the South Fork Flathead drainage through chemical treatment or genetic swamping. The Necklace Chain of Lakes, which consists of four lakes, is scheduled for chemical treatment this year, and George, Woodward, Pyramid, Pilgrim, Upper and Lower Three Eagles are scheduled for genetic swamping for a third year. The public has asked for a limit waiver

so they might maximize fish harvest before treatment. Although these lakes are remote, and the ability of the public to remove fish by angling is difficult, limit waivers create good will and enhance the project's goal of genetic purity.

Action: Vermillion moved and Colton seconded the motion to remove the daily and possession bag limits, effective immediately through October 1, 2010, for the Necklace Chain, George, Woodward, Pyramid, Pilgrim, and Upper and Lower Three Eagles lakes—including within 100 yards of the lakes for inlet and outlet streams in the South Fork Flathead drainage. Motion carried.

Action: Moody moved and Colton seconded the motion to enter into an Executive Session, and then return to regular business. Motion carried. Executive sessions are closed to the public.

12. 2011 Moose, Sheep, Goat Quotas Outside Biennial Quota Ranges - Final. Quentin Kujala, FWP Wildlife Bureau, stated that one change is proposed to the 2010 quota and biennial range. All other quotas are proposed to be unchanged from 2010 levels or will be adjusted within current biennial ranges. That change is to decrease antlered moose licenses from 4 to 3, and to adjust the biennial quota range from 4 – 10 to 3 - 10 in Region 3 HD 327-20.

Action: Vermillion moved and Moody seconded the motion to adopt as final, the adjustment to the moose 327-20 annual quota and biennial range as proposed by FWP. Motion carried.

13. Nongame Check-off Work Plan - Proposed. Ken McDonald, FWP Wildlife Bureau Chief, explained that under 87-5-122, MCA, the Commission must review and approve, annually, project proposals for funding from the nongame wildlife account. FWP estimates the dollar amount for FY12 to be \$35,000, and recommends expending \$15,000 to identify, prioritize, and monitor conservation habitat for nongame, threatened or endangered species, \$15,000 for inventory, monitoring and conservation work on species of concern, including bald eagles, common loons, bats, and amphibians, and \$5,000 for competitive student stipend for nongame research.

Action: Colton moved and Moody seconded the motion to approve the proposed Nongame Tax Check-Off work for Fiscal Year 2012. Motion carried.

14. 2011 HB 454 Hunting Access Agreements - Proposed. Under the provisions of 87-2-513 MCA, FWP received the authority to issue either-sex or antlerless elk permits to landowners for management purposes. The landowner must offer free public elk hunting, meet the various conditions of the statute, and enter a contractual public elk hunting access agreement with FWP. Quentin Kujala, FWP Wildlife Bureau, explained that this year there are two proposed agreements, however, one is still in the negotiation phase.

The Swanz Hunting Access Agreement, which began in 2002, stipulates that in return for allowing access to elk hunters, Mr. Swanz or a family member would receive one 411-21 either-sex permit. In turn, FWP would issue four additional 411-21 permits from the random list of unsuccessful applicants for that license permit type. Successful applicants can only hunt on the Swanz deeded property. This agreement is the same as the 2010 agreement, which received positive reviews.

A new agreement is proposed with the N-Bar Ranch in HDs 411 and 530 in which two landowners or designated family members and eight randomly selected public hunters would receive a total of ten 411-21 either sex elk permits valid on the specified access area. Details are not finalized yet.

Motion: Colton moved and Vermillion seconded the motion to approve the Swanz Agreement, and to endorse discussion with the N-Bar Ranch. Motion carried.

15. 2011 Fall Upland Game Bird Quotas and Limits - Proposed. Quentin Kujala, FWP Wildlife Bureau, explained that this proposal includes turkeys, and there are no changes proposed from the 2010 bag and possession limits and quotas.

Action: Colton moved and Vermillion seconded the motion to adopt the 2011 upland game bird bag and possession limits and permit quotas as proposed by FWP. Motion carried.

16. Robb Ledford WMA Sheep Trailing - Proposed. Ken McDonald, FWP Wildlife Bureau Chief, explained that area ranchers have trailed domestic sheep across the Robb Ledford Wildlife Management Area to reach their summer and winter

grazing pastures for over forty years. Sheep are trailed to Forest Service land for summer pasture, and returned home in the fall.

The following paragraph (verbatim) is from the Agenda Item cover sheet:

During the 2011 legislative session MCA 87-1-301 and 87-1-303 were amended further refining commission authority over lands owned or controlled by FWP, specifically as it relates to trailing of domestic livestock (HB 0541). The amendment states that for lands owned or controlled by FWP, the commission may not regulate or classify domestic livestock trailing as a commercial activity or use subject to licensing, permitting or fee requirements and that this activity is exempt from the requirements of Title 75, chapter 1 parts 1-3. Title 75, chapter 1 addresses environmental policy and protection and parts 1, 2 and 3 cover the general provisions, environmental impact statements and environmental quality council of Montana code, respectively. The changes to MCA 87-1-303 provide the commission the authority to authorize domestic livestock trailing across lands owned or controlled by FWP as a wildlife management area, and the commission can adopt rules governing the timing and route to be used (only as deemed necessary to both enable trailing of domestic livestock and protect and enhance state lands). That authority does not extend to requiring a fee for trailing or related activities, or prohibiting or unreasonably interfering with trailing activities.

Proposed rules for domestic sheep trailing across the Robb-Ledford WMA.

Route: *The proposed route follows traditional trailing routes used for over 40 years by domestic sheep producers. The route enters the Robb-Ledford WMA near the junction of the WMA boundary and Dry Hollow, crosses the WMA along the ridge to the north and east of Rock Creek, and exits near the Notch at the eastern WMA boundary. A map is attached for further detail (Figure 1).*

Timing: *Domestic sheep trailing will occur during two time periods, summer and fall. The summer time period will run from July 1 through July 15 and the fall time period will run from September 20 through October 10 of each year. Trailing activities will occur only along the above designated route. Duration of bedding/staging activities will not exceed one night per domestic sheep band.*

Kill Permit: *A kill permit will be issued to producers trailing domestic sheep through the Robb-Ledford WMA. The permit will authorize the producer or his/her employee to lethally remove any bighorn sheep: 1) observed comingling with, 2) believed to have had a high likelihood of comingling with, or 3) observed within 20 yards of domestic sheep. Producers or their employees will be encouraged to haze any observed bighorn sheep away from domestic sheep bands to reduce the potential for comingling and reducing the necessity to use the kill permit. Should the kill permit be utilized, the producer or employee must notify FWP immediately.*

Notification: *The sheep producers will notify FWP a minimum of three days prior to trailing each band of sheep across the WMA each summer and fall.*

Action: Vermillion moved and Colton seconded the motion to authorize domestic sheep trailing on the Robb Ledford WMA subject to the proposed tentative rules.

Jim Brown, Montana Wool Growers Association, said this is a collaborative effort. It is a resolution to a problem. They do not see this as having an impact on bighorn sheep.

Stan Frasier, Montana Wildlife Federation, said this is not an acceptable solution. Livestock producers should make concessions rather than the wildlife. He said to truck the sheep to the pastures.

John Helle, Dillon Rancher, stated that there is a MOU in place. Bighorn sheep will not be impacted. They trail their sheep with dogs and support folks. Wildlife senses their presence and moves out of the way.

Jay Bodner supports this proposal, and does not see the need for an annual review.

Pat Flowers, FWP Region 3 Supervisor, suggested that it might be appropriate for FWP staff to ride with the ranchers when they move the sheep.

Jim Bailey, Gallatin Wildlife Association, said the law states that FWP may authorize this practice. Rules have to be formulated. He opposes this proposal.

Action on Motion: Motion carried.

17. 2011 Wolf Hunting Seasons, Quotas and Hunting District Boundaries - Proposed. Ken McDonald, FWP Wildlife Bureau Chief, narrated a Power Point presentation and presented the seasons, quotas and boundaries as follows. All other season elements are unchanged from the 2010 proposal.

- Fourteen (14) Wolf Management Units (WMUs)
- Higher statewide (220) and WMU quotas from 2010
- Archery only season limited to not more than 20% of WMU quotas/subquotas
- Backcountry WMU quotas or subquotas for early rifle season
- New WMU 250 made up of deer/elk HD 250 to focus harvest in a manner consistent with 10j proposal
- Hunter harvest opportunity until individual WMU quotas/subquotas are met but not later than December 31
- Wolf licenses purchased after season start not valid until 5 days after purchase
- Potential harvest over-runs taken off other WMU or statewide quotas
- Quota to tally only legal harvest

Action: Colton moved and Vermillion seconded the motion to adopt the proposed 2011 wolf season, quotas and hunting district boundaries as presented by FWP.

Ream said genetics papers have shown connectivity issues is not much of an issue anymore, and the Canadian wolves are not twice the size of other wolves. He emphasized that “minimum count” means “minimum count”.

Norman Bishop, LWC, said he has been educating people about wolves for 20 years. He said he has no need to kill a wolf – he has no need to eat it or use the hide. Wolf mortality by human offtake can drive down the numbers drastically. Reproduction will not offset human offtake. Taking wolves to help elk and deer populations will upset ecological balance. Established packs are more stable.

Ilona Popper, Bear Creek Council, Gardiner, said they value wolves in the state and want to preserve them. She said to use the best science to guide the management of predator / prey balance. They are concerned about the boundary outside of Yellowstone Park, and about an early hunt. Tourism is essential to Montana, and wolves are a player in tourism for wolf watchers. She thanked FWP for all their work.

Mary Fay, Helena, is opposed to a wolf hunting season. The proposal of taking 220 wolves is 40 percent of them. There should not be a spring hunt as they have pups, and starving pups is not ethical or fair chase or humane. This is an indiscriminate removal of wolves. It won't reduce the impact on wildlife. Indiscriminate killing of wolves messes up the balance of the pack. Killing should only be done if a wolf is conflicting with other animals. Elk and deer don't belong just to hunters. Shooting wolves will just increase elk and deer so hunters can shoot them. Hunting should be prohibited on large blocks of land.

Wayne Brewster, MWF, said he supports the objectives.

Derek Goldman, Western Wolf Coalition, said they do not oppose big game hunting, but they do not embrace predator hunting. He urged FWP to use the best available science for a well regulated and monitored hunt. They are glad that trapping is not included, as trapping does not always catch the targeted species, which is bad. Tripling the quota from 75 to 220 will have a larger impact than what is expected. He urged the Department to adjust quotas when proposals are recommended, not during mid-hunt if the quota shifts due to movement. He urged the Department to review its response to depredation.

Keith Kubista, Montana Sportsmen for Fish and Wildlife, supports public hunting of wolves. The elk have suffered immensely in the Bitterroot. He urged the Commission to look at extending the December 31 date.

Mark Cooke, Stevensville, said he agrees with Derek Goldman and Mary Fay.

Barb Cestero, Greater Yellowstone Coalition, said GYC supports fair chase hunting and understands the desire to reduce the population, but they are concerned about the rate of reduction and the take of 40 percent of the population is too high. This year's hunt will be heavily scrutinized. Slow the rate of reduction. The wolf population had declined in Yellowstone National Park. Please consider lowering the quota statewide. Don't have an early season on wolves.

Jonathon Matthews, Helena, thanked the Department for using a science based approach for managing the wolf population. He said the quota of 220 is pretty high. Get more conservative and take fewer wolves.

Paul Rossigno, Lolo, said he didn't hunt last year as he was afraid of what the take would do to the population of the deer and elk. He will not allow public hunting on his ranch because of his fear of taking too many animals. Ungulates take 5 years to become reestablished.

Jay Bodner, MSA, supports the hunt. Move some numbers around to accommodate all areas. Remove depredating wolves.

Steve Kamps, Montana Bowhunters Association, said the take of 220 is not enough. Consider a higher number.

John Helle, Dillon, said if the elk move, the wolves move with them so flexibility is needed in hunting wolves.

Jim Brown, Montana Woolgrowers Association, said hunting wolves is consistent with hunting other species, and controlling them as they create problems. He believes a quota of 220 is good to start with and will not jeopardize the species. The wolf hunt is only three months of the year. He said he encourages FWP to manage wolves and to work with producer groups and landowners.

Action on Motion: Motion carried.

18. Reestablish Closure of Clark Fork & Blackfoot Rivers Near Milltown Dam Site - Final. Chas VanGanderen, FWP Parks Division Administrator, explained that in 2006 the Commission authorized FWP to close stretches of the Clark Fork River and the Blackfoot River near the Milltown Dam superfund site for safety reasons, for five years. Hazards include rapid water level changes, exposed and unstable debris and sediments, and construction activities. In April the Commission approved the proposed extension of the closure for two years to allow final cleanup and restoration activities to occur. Ten comments were received, three in support and 6 in opposition. Opposing comments indicated that they knew how to get around the hazards and there is no other place for kids to play. Although navigation is possible, the Parks Division does not feel that is appropriate for safety. The CAC recommended the Commission adopt regulation changes as required by statewide river recreation rules.

Action: Colton moved and Moody seconded the motion to adopt the Department's proposed final rules for closure of the Clark Fork River and Blackfoot River in the specified sections of river near the confluence for public safety and restoration protection reasons. Motion carried.

19. Open Microphone – Public Opportunity to Address FWP Issues Not on Agenda.

Bob Klein, Walleyes Unlimited, is in possession of a petition opposing no limit on Holter Lake to Cascade Bridge. They have gathered signatures to share with the Commission about no limit on that section of the river. He is aware the April 22nd comment deadline is over, but the petition process ended last weekend. They want the walleye regulations changed back to 5 daily and 10 in possession. No limit creates opportunities for abuse of the walleyes as well as other species.

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*Action: Vermillion moved and Moody seconded the motion to adjourn. Motion carried.*

The meeting adjourned at 2:20 p.m.

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Bob Ream, Chairman

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Joe Maurier, Director